**Section 310.111 New Source**

a) "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the date specified in 35 Ill. Adm. Code 307 for the particular source category or subcategory applicable to the source, if one of the following is true:

1) The building, structure, facility, or installation is constructed at a site at which no other source is located;

2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

b) Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility, or installation that meets the criteria of subsection (a)(2) or (a)(3), but which otherwise alters, replaces, or adds to existing process or production equipment.

c) Construction of a new source, as defined in this Section, has commenced if the owner or operator has done either of the following:

1) It has begun or caused either of the following to begin as part of a continuous on-site construction program:

A) Any placement, assembly, or installation of facilities or equipment; or

B) Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities, that is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2) It has entered into a binding contractual obligation for the purchases of facilities or equipment that are intended to be used in its operation within a reasonable time. An option to purchase or a contract that can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies does not constitute a contractual obligation under this subsection (c)(2).

d) A new source must install and have in operating condition and must "start up " all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), a new source must meet all applicable pretreatment standards.

BOARD NOTE: Derived from 40 CFR 403.3(m) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)